

Article - Transportation

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§16–303.1.

(a) In this section, “police department” has the meaning stated in § 25–201 of this article.

(b) (1) For the purpose of impounding or immobilizing a vehicle under this section, the police department may use its own personnel, equipment, and facilities or, subject to the provisions of paragraph (2) of this subsection and except as provided in § 25–115 of this article, use other persons, equipment, and facilities for immobilizing vehicles or removing, preserving, and storing impounded vehicles.

(2) A police department may not authorize the use of a tow truck under paragraph (1) of this subsection unless the tow truck is registered under § 13–920 of this article.

(c) (1) As a sentence, a part of a sentence, or a condition of probation, a court may order, for not more than 180 days, the impoundment or immobilization of a solely owned vehicle used in the commission of a violation of § 16–303(c) or (d) of this subtitle if, at the time of the violation:

(i) The owner of the vehicle was driving the vehicle; and

(ii) The owner’s license was suspended or revoked under § 16–205 of this title.

(2) Among the factors that a court may consider before ordering an impoundment or immobilization of a vehicle is whether the vehicle is the primary means of transportation available for the use of the individual’s immediate family.

(3) (i) Subject to subparagraph (ii) of this paragraph, a court may not order impoundment or immobilization of a vehicle under this section if the registered owner of the vehicle made a bona fide sale, gift, or other transfer of the vehicle to another person before the date of the finding of a violation of § 16–303(c) or (d) of this subtitle.

(ii) The registered owner of the vehicle has the burden of proving that a bona fide sale, gift, or other transfer of the vehicle has occurred.

(d) (1) The registered owner of a vehicle impounded or immobilized under this section is responsible for all actual costs incurred as a result of the

immobilization of the vehicle or the towing, preserving, and storing of the impounded vehicle.

(2) The court may require the registered owner of a vehicle impounded or immobilized under this section to post a bond or other adequate security equal to the actual costs of immobilizing the vehicle or towing, preserving, and storing the vehicle and providing the notices required under subsection (f) of this section.

(3) Subject to this section, a police department that impounds a vehicle by taking the vehicle into custody or immobilizes a vehicle under this section promptly shall return possession or use of the vehicle to the registered owner of the vehicle on payment of all actual costs of immobilizing the vehicle or towing, preserving, and storing the impounded vehicle and providing the notices required under subsection (f) of this section.

(e) If a court orders the impoundment or immobilization of a vehicle under this section, the court shall provide for the execution of the impoundment or immobilization by a police department.

(f) (1) If a court orders the impoundment or immobilization of a vehicle under this section, the police department that executes the immobilization or the impoundment by taking the vehicle into custody, shall, as soon as reasonably possible and within 7 days after the police department executes the court order, send a notice by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to:

(i) Each registered owner of the vehicle as shown in the records of the Administration; and

(ii) Each secured party, as shown in the records of the Administration.

(2) The notice shall:

(i) State that the vehicle has been immobilized or impounded by being taken into custody;

(ii) Describe the year, make, model, and vehicle identification number of the vehicle;

(iii) Provide the location where the vehicle is immobilized or the location of the facility where the vehicle is impounded;

(iv) Include the amount of the actual costs of immobilization or towing, preservation, and storage of an impounded vehicle;

(v) Include the amount of the actual costs of the notices required under this subsection; and

(vi) Provide that, if an impounded vehicle is not reclaimed within 10 days after the date specified in a court order under this section, the impounded vehicle will be considered an abandoned vehicle and subject to Title 25, Subtitle 2 of this article.

(3) If an impounded vehicle is not reclaimed within 10 days after the date specified in a court order under this section, the vehicle shall be considered an abandoned vehicle subject to Title 25, Subtitle 2 of this article.

(g) (1) This section may not be construed to prohibit a lienholder from exercising its rights under applicable law, including the right to sell a vehicle that has been impounded or immobilized under this section, in the event of a default in the obligation giving rise to the lien.

(2) (i) A lienholder that exercises the right to sell a vehicle that has been impounded or immobilized under this section shall notify, in writing, the police department with custody of the vehicle of the lienholder's intention to sell the vehicle.

(ii) The notice shall be accompanied by a copy of each document giving rise to the lien and shall include an affidavit under oath by the lienholder that the underlying obligation is in default and the reasons for the default.

(iii) On request of the lienholder and on payment of all costs required under this section, the vehicle shall be released to the lienholder.

(3) Except as provided in paragraph (4) of this subsection, the rights and duties provided by law to the lienholder for the sale of collateral securing an obligation in default shall govern the repossession and sale of the vehicle.

(4) (i) The lienholder may not be required to take possession of the vehicle before a sale of the vehicle.

(ii) The proceeds of any sale shall be applied first to the actual costs of immobilization or towing, preservation, and storage of an impounded vehicle and the actual costs of the notices required under subsection (f) of this section, then as provided by law for distribution of proceeds of a sale by the lienholder.

(5) (i) If the interest of the owner in the vehicle is redeemed, the lienholder shall, within 10 days after the redemption, mail a notice of the redemption to the police department that impounded or immobilized the vehicle.

(ii) If the vehicle has been repossessed or otherwise lawfully taken by the lienholder and the time specified by a court order under this section has not expired, the lienholder shall return the vehicle within 21 days after the redemption to the police department that impounded or immobilized the vehicle.

(h) This section does not affect the requirements of Title 25, Subtitle 2 of this article regarding abandoned vehicles.

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